

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA, §  
§  
v. § Case Number: 3:16-cr-00060-M  
§  
JOHN PAUL COOPER (2) §  
WALTER NEIL SIMMONS (3) §  
WILLIAM FRANK ELDER-QUINTANA (4) §  
JEFFRY DOBBS COCKERELL (7) §  
STEVEN BERNARD KUPER (8) §  
MICHAEL JOHN KISELAK (12), §  
§  
Defendants. §

**ORDER**

Before the Court are the parties' Motions in Limine on which the Court has not yet ruled in writing. Defendants' Joint Motion in Limine as to Co-Defendant Guilty Pleas and Convictions [ECF No. 770] is **GRANTED IN PART** and **DENIED IN PART**. The Court will allow the Government to prove that testifying co-defendant witnesses have pleaded guilty to charges that have been brought against them, but not the details of any plea agreement unless the door is opened to such testimony. Co-defendants who have pleaded guilty and are in custody will wear street clothing when testifying. The fact that those witnesses are currently in custody will not be the subject of proof by the Government unless the door is opened to such testimony or the Government proves to the Court's satisfaction that relevance exceeds prejudice so that the Court modifies its ruling.

Defendants Simmons and Elder's Joint Motion in Limine as to the alleged MMR21 scheme [ECF No. 789] is **GRANTED**. The Government is precluded from presenting evidence as to Defendant Simmons and Elder's involvement with MMR21, unless the Government first presents evidence outside the presence of the jury establishing that the MMR21 scheme is sufficiently similar to the scheme alleged in this case that it should be admitted.

The Government's Motion in Limine as to Unindicted Individuals [ECF No. 553 at 6-7] is **GRANTED**. Defendants shall be precluded from arguing that they are not guilty because the Government did not indict others who participated in the scheme. The Government's Motion in Limine as to Advice of Counsel Defenses [ECF No. 567] is **DENIED**. The Court will allow Defendants to present evidence of conversations with counsel, even if a formal advice of counsel defense is not being asserted. However, if requested by the Government, the Court will instruct the jury which Defendants have not asserted such a defense and for those who have, if it is the case, that the elements of such a defense have not been met. If the Government requests such a jury instruction, it shall submit a proposed instruction to the Court.

Defendant Cockerell's Motion in Limine regarding reference to a "sham study" [ECF No. 800] is **DENIED**.

**SO ORDERED.**

October 14, 2019.



BARBARA M. G. LYNN  
CHIEF JUDGE